

OFFICIAL COPY

Fresno, California

December 11, 2001

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chambers, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Brad Castillo	Councilmember
	Jerry Duncan	Councilmember
	Sal Quintero	Councilmember
	Dan Ronquillo	Acting Council President
	Henry Perea	Council President

Andy Souza, Assistant City manager
Hilda Cantu Montoy, City Attorney
Jesse Avila, Assistant City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

President Perea called for a moment of silence in observance of the three month anniversary of the September 11th terrorist attacks and those who died.

Assistant City Manager Souza gave the invocation and Councilmember Boyajian led the Pledge of Allegiance to the Flag.

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(8:30 P.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY

The City Council met in joint session with the Redevelopment Agency at the hour of 8:33 a.m.

APPROVE AGENCY MINUTES OF NOVEMBER 27, 2001

On motion of Acting President Ronquillo, seconded by Councilmember Calhoun, duly carried, RESOLVED, the Agency minutes of November 27, 2001, approved as submitted.

(“B”) DIRECTION TO STAFF TO PREPARE CLEAN UP AMENDMENTS TO THE DEVELOPMENT AGREEMENT AND LAND SALE CONTRACT BETWEEN COMMUNITY MEDICAL CENTER, THE CITY OF FRESNO AND THE REDEVELOPMENT AGENCY RELATED TO THE REGIONAL MEDICAL CENTER CAMPUS PROJECT, AND ESTABLISH A \$3.5 MILLION RESERVE FUND (COUNCIL AND AGENCY ACTION)

Laid over one week.

(“A”) AGENCY RESOLUTION NO. 1595 - ESTABLISHING INDUSTRIAL DEVELOPMENT DESIGN GUIDELINES FOR ALL EXISTING AND FUTURE REDEVELOPMENT PLAN AREAS WHICH INCLUDE ANY LAND DESIGNATED FOR INDUSTRIAL USE

Redevelopment Administrator Murphey gave a brief overview of the issue as contained in the staff report as submitted, and Acting President Ronquillo commended staff and encouraged them to continue in this direction, spoke in support of the resolution stating guidelines were needed, and commented on how the city had not really been proactive in the business park area but was now starting.

On motion of Acting President Ronquillo, seconded by President Perea, duly carried, RESOLVED, the above entitled Resolution No. 1595 hereby adopted, and staff directed to have business theme guidelines prepared for the Airport Area and the Roeding Business Park, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Perea, Quintero, Ronquillo, Duncan
Noes	:	None
Absent	:	None

(“C”) RECEIVE REPORT REGARDING A PROPOSED INCUBATOR OFFICE DEVELOPMENT ON AGENCY PROPERTY LOCATED AT 730 VAN NESS IN THE CONVENTION CENTER REDEVELOPMENT PROJECT AREA AND PROVIDE AGENCY STAFF WITH FURTHER DIRECTION FOR PREPARATION OF A DISPOSITION AND DEVELOPMENT AGREEMENT WITH CENTRAL VALLEY BUSINESS INCUBATOR, INC. (COUNCIL AND AGENCY ACTION)

Redevelopment Administrator Murphey gave an overview of the issue as contained in the staff report as submitted and advised representatives of Central Valley Business Incubator, Inc. (CVBI) were present. President Perea commended staff for their work and CVBI for bringing their project downtown and questioned what would happen to the property (that the City would convey to CVBI for \$1.00) if they outgrew it or wanted to do something different in the future, with Ms. Murphey responding staff could include a number of provisions in the DDA if that was directed. A motion and second to approve staff’s recommendation was made and acted upon after brief comments by Councilmembers Castillo, Ronquillo and Chair Duncan who also spoke in support and commended staff and CVBI.

On motion of President Perea, seconded by Acting President Ronquillo, duly carried, RESOLVED, the report regarding a proposed 35,000 Incubator Office Development hereby received and Agency staff directed to proceed with the development of a Disposition and Development Agreement with Central Valley Business Incubator, Inc., by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Perea, Quintero, Ronquillo, Duncan
Noes	:	None
Absent	:	None

(“D”) APPROVE REQUEST FOR CONFLICT OF INTEREST WAIVER FOR MCDONOUGH, HOLLAND & ALLEN (COUNCIL AND AGENCY ACTION)

Assistant City Attorney Avila gave a brief overview of the issue as contained in the staff report as submitted, and along with Agency Director Fitzpatrick and City Attorney Montoy responded to questions of Councilmembers Calhoun and Castillo relative to whether the Agency Director supported the request, what the firm knew about the RDA and if that would be a cause of concern, if staff was anticipating the firm conducting additional business for the RDA, the firm being approved to work on the Fancher Creek project and how that would affect any future services, if there was any information aside from RDA that Mr. Beatty could come in contact with, the firm selection process, if it would be possible to include language in the agreement relative to prohibiting litigation against the city including a time limit, and if the waiver was being requested because a conflict did exist. Brief discussion ensued.

On motion of Acting President Ronquillo, seconded by Councilmember Calhoun, duly carried, RESOLVED, the City Attorney authorized to execute the conflict of interest waiver as to those matters identified in the staff report only, conditioned upon the proviso that Mr. David Beatty not be involved in any manner with the Fancher Creek project, and if, in the future, it appears a real conflict has developed, the waiver can be revoked, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Perea, Quintero, Ronquillo, Duncan
Noes	:	None
Absent	:	None

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The joint bodies adjourned their meeting and the City Council reconvened in regular session at 8:56 a.m.

President Perea noted Councilmember Boyajian would be running unopposed in the next election and commended him stating it was due to his great work in his district.

PROCLAMATION OF DOUG-OUT COOKIES DAY - COUNCILMEMBER BOYAJIAN

RESOLUTION OF COMMENDATION FOR PIERCE PEROTTI ON BEING ONE OF 1,202 FINALISTS IN THE STATE AND NATIONAL COMPETITION FOR THE WENDY'S HIGH SCHOOL HEISMAN AWARD

The above proclamation and resolution were read and presented.

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APPROVE COUNCIL MINUTES OF DECEMBER 4, 2001

On motion of Councilmember Castillo, seconded by Acting President Ronquillo, duly carried, RESOLVED, the minutes of December 4 2001, approved, as amended, on Page 138-252, Item 5B, correcting the vote to show President Perea voting "Aye" and Acting President Ronquillo voting "No".

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APPROVE AGENDA:

City Clerk Klisch advised material for the 10:05 A.M. Item was included in the packet twice under 10:05 a.m. and 5A (where it was originally scheduled).

In motion of Acting President Ronquillo, seconded by Councilmember Calhoun, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Perea, Quintero, Ronquillo, Duncan
Noes	:	None
Absent	:	None

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President Perea extended an invitation to the Mayor/Council Christmas reception in the Mayor's office at 3:00 p.m. this date.

ADOPT CONSENT CALENDAR:

(1A-8a.) RESOLUTION NO. 01-396 - 58TH AMENDMENT TO AAR 01-200 APPROPRIATING \$160,000 OBTAINED FOR THE PURPOSE OF IMPLEMENTATION OF A METROPOLITAN MEDICAL RESPONSE SYSTEM (MMRS)

(1A-13a.) APPROVE THE ACQUISITION OF THE PERMANENT MONITORING WELL EASEMENT, PERMANENT ACCESS EASEMENT, AND TEMPORARY CONSTRUCTION EASEMENT NEAR THE SOUTHEAST CORNER OF W. NORTH AND S. HUGHES AVENUES FROM PHI VAN TRI AND KAY LIEN TRI FOR \$2,250; AUTHORIZE THE DIRECTOR OF PUBLIC UTILITIES TO SIGN THE AGREEMENT FOR PURCHASE AND SALE OF EASEMENTS ON REAL PROPERTY AND ESCROW INSTRUCTIONS ON BEHALF OF THE CITY; AND AUTHORIZE THE CITY CLERK TO ACCEPT THE EASEMENT DEED ON BEHALF OF THE CITY

On motion of Acting President Ronquillo, seconded by Councilmember Quintero, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Perea, Quintero, Ronquillo, Duncan
Noes	:	None
Absent	:	None

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(2A) WORKSHOP REGARDING THE INSTALLATION OF CELLULAR COMMUNICATION TOWERS AND NEW LATTICE TOWERS FOR TELEVISION STATIONS AND DISCUSSION ON DRAFT POLICY

Planning and Development Director Yovino gave an overview of the issue and draft policy as contained in the staff report as submitted, and advised the issue was being presented for discussion and staff would return with a complete environmental assessment and resolution to formally adopt the policy at a later date.

Speaking to the issue were: Monty Montemagni, Logan and Associates, representing KSEE Channel 24, who requested revisions relative to television lattice towers and four dish limitation; and **(2 - 0)** and John Lockhart, KSEE Chief Engineer, in support of Mr. Montemagni's request.

Discussion ensued with Mr. Yovino responding to questions and/or comments of Councilmembers Calhoun, Quintero, Boyajian, Duncan, Castillo and President Perea relative to need for neighborhood input, noticing, if the 18 inch diameter was becoming an industry-wide standard, what was going to happen to the existing poles, need for criteria for placement of poles in neighborhoods, residential neighborhoods being the last option for pole placement, including Channel 24's request in the policy, and consulting with the FAA when installing poles near the airport. There was no further discussion

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A visiting government class from Hoover High School was recognized and welcomed.

REQUEST FOR STAFF REPORT ON COMPLIANCE OF DOWNTOWN CAR LOTS - COUNCILMEMBER CASTILLO

REQUEST FOR MID YEAR REPORT ON PRIOR COUNCIL DIRECTION GIVEN TO HUMAN RESOURCES TO STREAMLINE THE RECRUITMENT PROCESS FOR JOB OPENINGS - COUNCILMEMBER CASTILLO

REQUEST FOR STAFF REPORT AT THE END OF JANUARY ON PERFORMANCE STANDARDS OF THE CONVENTION AND VISITOR'S BUREAU - COUNCILMEMBER DUNCAN

Requests made.

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RECESS - 9:35 A.M. - 9:55 A.M. Councilmember Quintero arrived later.

(9:55 A.M.) HEARING ON CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 31, TRACT NO. 4983 (HEARING CANCELLED)

Supervising Engineer Phillips advised the developer had indicated he no longer wished to proceed at this time and the hearing was being cancelled. Upon question of Councilmember Calhoun, Mr. Phillips and Assistant City Manager Souza confirmed the matter related to a project at Dakota and Cornelia by the National Farm Workers Service Center and advised staff would look into why the developer was terminating the development process and report to Council by tray memo and, if warranted, schedule the matter before Council. Brief discussion ensued.

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(10:00 A.M.) HEARING ON CITY OF FRESNO COMMUNITY FACILITIES DISTRICT (CFD) NO. 2, ANNEXATION NO. 32, TRACT NOS. 4911 AND 4723

- 1. RESOLUTION NO. 01-397** - ANNEXING TERRITORY TO CFD NO. 2 AND AUTHORIZING THE LEVY OF A SPECIAL TAX
- 2. RESOLUTION NO. 0-398** - CALLING SPECIAL MAILED BALLOT ELECTION
- 3. RESOLUTION NO. 01-399** - DECLARING ELECTION RESULTS
- 4. * BILL NO. B-98 - ORDINANCE NO. 01-90** - LEVYING A SPECIAL TAX FOR THE PROPERTY TAX YEAR 2001-2002 AND FUTURE YEARS WITHIN AND RELATING TO CFD NO. 2, ANNEXATION NO. 32

President Perea announced the time had arrived to consider the issue and opened the hearing. Supervising Engineer Phillips gave a brief overview of the issue.

Upon call, no one wished to be heard and President Perea closed the hearing.

On motion of Councilmember Duncan, seconded by Acting President Ronquillo, duly carried, RESOLVED, the above entitled Resolution Nos. 01-397, 01-398 and 01-399 hereby adopted, and the above entitled Bill No. B-98 adopted as Ordinance No. 01-90, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Ronquillo, Perea
Noes	:	None
Absent	:	Quintero

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RECESS - 10:01 A.M. - 10:06 A.M. Councilmember Quintero was present and Acting President Ronquillo arrived later.

(10:05 A.M.) CLARIFICATION OF THE 10% CONTINGENCY FROM EACH DEPARTMENT’S BUDGET AS PART OF THE ADOPTION OF THE FY 2001-2002 BUDGET - COUNCILMEMBER CASTILLO

Councilmember Castillo requested from staff an accounting of all savings from each department at the same time Ms. Quinto reports at the mid year budget review on the status of revenues, and stated if the police department was covering the recent \$2.5 million error in grant funds without affecting any city services departments could do the same.

Extensive discussion ensued with Councilmembers Calhoun, Duncan, Boyajian, Castillo and President Perea advising of their understanding of the 10% contingency and/or commenting on the matter including, among other issues, the need for staff to provide Council with options/recommendations on where to cut so there are no massive layoffs if revenues continue to be a shortfall, the 10% contingency being a secondary issue no matter what the revenues turn out to be, waiting to get information in mid-January to get a better handle on the city’s position, responsibilities of the Council Fiscal Responsibility Committee, “massive layoffs” being taken out of context, different interpretations of staff on the 10%, the charter giving the Controller independence, comment made by the city manager on reviewing the legality of Council’s action establishing a 10% contingency and the City Attorney advising the action was deemed legal, explained, other comments by the city manager, the need for staff to have been modifying the work plan, and clarification that staff was not talking about a 10% reduction in revenues but a 1% - 2% reduction primarily focused on sales taxes (with City Attorney Montoy and Assistant City Manager Souza responding to questions and clarifying issues).

Barbara Hunt, 612 “F” Street, spoke to the issue.

There was no further discussion.

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- (B) CONFERENCE WITH LEGAL COUNCIL - EXISTING LITIGATION - CASE NAMES:
 2. EDGAR RUPERTO, SYLVESTER PEREZ AND BILLY SMITH V. CITY OF FRESNO
 3. UNSPECIFIED: ONE CASE (DISCLOSURE OF TITLE WOULD ADVERSELY AFFECT SETTLEMENT NEGOTIATIONS)

The above entitled Items **B-2** and **B-3** removed from the agenda at the direction of the City Attorney.

(A) CONFERENCE WITH LEGAL COUNCIL - EXISTING LITIGATION - CASE NAME: CLAIM OF LAURA FERRIS

- (B) CONFERENCE WITH LEGAL COUNCIL - EXISTING LITIGATION - CASE NAMES:
 1. CITY OF FRESNO V. CITY OF CLOVIS, LAFCO AND COUNTY OF FRESNO

The City Council met in closed session in Room 2125 at the hour of 10:40 a.m. to consider the above Items **A** and **B-1** and adjourned for lunch thereafter.

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LUNCH RECESS - 12:19 P.M. - 2:02 P.M. Councilmember Quintero arrived later in the meeting.

(11:00 A.M. #1) CONTESTED CONSENT CALENDAR ITEMS:

(1A-12a.) RESOLUTION NO. 01-400 - AUTHORIZE THE PURCHASE OF A FLYGT PUMP FOR THE WASTEWATER TREATMENT FACILITY WITHOUT ADVERTISED COMPETITIVE BIDDING UNDER THE SOLE SOURCE EXCEPTION

Upon the request of Councilmember Calhoun, Interim Public Utilities Director McIntyre explained (1) why the sole source designation was necessary and (2) why the purchased amount was so close to the amount budgeted and submitted a picture of the subject pump into the record.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No. 01-400 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Ronquillo, Perea
Noes	:	None
Absent	:	Quintero

(1A-13b.) * RESOLUTION NO. 01-401 - APPROVING THE TRANSFER OF CONTINGENCY APPROPRIATIONS FOR EXPENSES RELATED TO CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO.
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like a strange way to do things and he wanted to make sure the Controller was comfortable with the process. In the absence of the Controller (on scheduled vacation) Assistant City Manager Souza and Deputy City Attorney Hale explained the process, clarified this was not a city obligation, and responded to questions of Councilmember Calhoun relative to whether the procedure was a generally accepted practice, if this was the first time the process was used and if staff anticipated doing this again.

On motion of Councilmember Duncan, seconded by Acting President Ronquillo, duly carried, RESOLVED, the above entitled Resolution No. 01-401 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Ronquillo, Perea
Noes	:	None
Absent	:	Quintero

(1A-15-a.) APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH URS CORPORATION FOR THE MASTER PLANNING OF THE FRESNO YOSEMITE INTERNATIONAL AIRPORT FUNDED BY FAA AIRPORT IMPROVEMENT PROGRAM GRANT NO. 3-06-0087-37 AND FF02 ENTITLEMENT

Councilmember Castillo requested (1) language be included in the scope of work relative to development of a business park theme design, (2) the city’s economic development plan be reviewed for airport owned properties, and (3) that staff report back with a recommendation on businesses best suited for airport facilities, and commented on and presented questions at length relative to whether extension of the runway was part of the alternatives evaluated, the \$696,000 overall amount and how that figure was derived, if all consultants were given the same scope of work, what methods were used to attract consultants, and the various tasks in the scope of work and concern with cost figures including report preparation cost. Councilmember Quintero arrived at 2:23 p.m. and Acting President Ronquillo briefly left the meeting at 2:30 p.m. Councilmember Castillo stated the Macias Group needed to have access to this information and presented additional questions relative to the cost for coordination of meetings by the consultant and if the Federal Aviation Administration might have concerns with the various cost figures, with Airports Development Manager Card, Director Hayes and Operations Manager Van Valkenburgh responding to questions and clarifying issues.

On motion of Councilmember Castillo, seconded by Councilmember Calhoun, duly carried, RESOLVED, the agreement with URS Corporation for the master planning of the Fresno Yosemite International Airport hereby approved conditioned upon approval of the FAA, and the Director of Transportation authorized to sign the agreement on behalf of the City, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Perea
Noes	:	None
Absent	:	Ronquillo

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Airports Director Hayes displayed a rendering of the airport project design (**Note - the following proceedings were not recorded due to tape or equipment malfunction:**) and along with Planning/Development Director Yovino and Planning Manager Beach addressed Councilmember Calhoun's concerns with the parking lot and lack of trees explaining security and birds were issues and explained, and also advised of the CUP process and requirements. Councilmember Calhoun noted developers were required to plant trees in new parking lots yet the city did not have to, strongly expressed his concern with the lack of trees stating it was sending the wrong message to visitors and a mixed message to developers, and questioned (**Recording resumes here: 4 - 0*) if there was any chance of visiting the issue again and if the City Council could do anything about it, with Mr. Hayes advising a contract change order would be necessary and City Attorney Montoy advising she would have to review the contract with staff. Brief discussion ensued on the tree issue.

Lengthy discussion continued with Mr. Hayes and DAS Director Esquivel clarifying issues and/or responding to questions and/or comments of Councilmembers Duncan, Boyajian, President Perea, and Councilmembers Castillo and Ronquillo relative to the parking lot design already being approved by the FAA, if more airports were doing away with trees because of security issues, type of crime that occurred on the long-term parking lot, Councilmember Duncan stating his support and advising he was glad security was of the utmost importance, concern with the delay in construction and why it was taking so long, if the project was on time and within budget, penalties, the budget being increased with delays, holding those responsible if the project goes beyond budget, airport services and if mass transit was planned, why there was no scale model of the expansion project, funding source for any delays, the Dispute Resolution Board and process, and radar system and category. President Perea noted there were issues at the beginning between the city and the construction team and stated he hoped the project would not go beyond budget but if it did he would want to know the performance issues on both sides. There was no further discussion.

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CLOSED SESSION ANNOUNCEMENT

City Attorney Montoy announced in the matter of closed session Item A-1, Claim of Laura Ferris for alleged breaking and entering by police, sheriffs and FBI agents causing damages of \$300 million for an incident allegedly occurring on November 1, 2001, the Council rejected the claim on a vote of 5 - 0 with Councilmembers Quintero and Ronquillo absent.

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DIRECT STAFF TO SCHEDULE ON THE DECEMBER 18TH AGENDA: "DIRECT CITY ATTORNEY TO DRAFT AN ORDINANCE ESTABLISHING A COMPETITIVE BIDDING PROCESS FOR THE HIRING OF CONSULTANTS" - COUNCILMEMBER CASTILLO

Direction made.

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ADJOURNMENT

There being no further business to bring before the Council, the hour of 3:20 p.m. having arrived and hearing

no objections, President Perea declared the meeting adjourned.

APPROVED on the 18th day of December, 2001.

Henry Perea, Council President

ATTEST: /s/ Yolanda Salazar, Assistant City Clerk